



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX**

75 Hawthorne Street
San Francisco, CA 94105

July 18, 2007

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First St., NE, Room 1A
Washington, DC 20426

Tim Filler
California State Lands Commission
100 Howe Ave., Suite 100 South
Sacramento, CA 95825

Subject: Final Environmental Impact Statement/Environmental Impact Report (FEIS/EIR) and Draft Land Use Plan Amendment for the North Baja Pipeline Expansion Project, FERC Docket Nos. CP06-61-000 and CP01-23-003
CA State Clearinghouse No. 2006081127

Dear Secretary Salas and Mr. Filler:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA Review authority under Section 309 of the Clean Air Act (CAA).

EPA reviewed the Draft Environmental Impact Statement/Environmental Impact Report (DEIS) and provided comments to the Federal Energy Regulatory Commission (FERC) and the California State Lands Commission (CSLC) on January 22, 2007. We rated the DEIS as Environmental Concerns - Insufficient Information (EC-2) because of concerns with the scope of the air quality analysis, indirect impacts on air quality, water resources impacts, and lack of mitigation measures described in the DEIS. Based on our review of the FEIS, EPA continues to have concerns about the proposed project.

EPA continues to be concerned that the FEIS lacks analysis of potential indirect air quality impacts, and mitigation to reduce impacts, associated with burning natural gas with a higher energy content (Wobbe Index) in downstream areas. Under NEPA, the EIS must discuss all relevant, reasonable mitigation measures that could improve the project, even if they are outside the jurisdiction of the lead agency (CEQ Forty Questions¹, #19b). Although we have continuing concerns with the content of the FEIS, we note that on July 13, 2007, the CSLC voted to certify the EIR with specific amendments requiring analysis of impacts from gas with a higher Wobbe Index and identification of mitigation. We support the amendments approved in the CSLC meeting and recommend that these commitments be documented in the Record of Decision.

¹Forty Most Asked Questions Concerning CEQ's NEPA Regulations, 40 CFR Parts 1500-1508, Federal Register, Vol. 46, No. 55, March 23, 1981.

EPA also remains concerned about the impacts associated with water resources. In response to our comments, the FERC and the CSLC state that the U.S. Army Corps of Engineers (Corps) has determined that the North Baja Pipeline Expansion Project would qualify for a Nationwide Permit (NWP) under the Section 404 permit program, and that the project would be exempt from a compensatory mitigation requirement. The type of NWP, however, was not specified. The NWP program does not exempt applicants from mitigating for project impacts to aquatic resources. Compensatory mitigation may be required, as described in the NWP General Condition 20. *Mitigation*, as published in the *Reissuance of Nationwide Permits* (2007). EPA also questioned whether the impact acreages identified on Table 4.4.2-1 included impacts to crossing 265 ephemeral washes. The FERC and the CSLC respond that Table 4.4.2-1 does not include ephemeral washes. EPA notes that permanent and temporary impacts for all waters of the United States, including ephemeral washes, should be discussed within the document and recommends that a description of these impacts be tabulated and included in the Record of Decision.

Thank you for the opportunity to review and submit comments on the FEIS for the North Baja Pipeline Expansion project. When the Record of Decision is signed, please send one copy to the address above (mail code: CED-2). If you have any questions, please contact me at (415) 972-3846 or Ann McPherson, the lead reviewer for this project. Ann can be reached at (415) 972-3545 or mcpherson.ann@epa.gov.

Sincerely,

/s/ Connell Dunning for

Nova Blazej, Manager
Environmental Review Office

Cc: Stephen L. Birdsall, Imperial County Air Pollution Control District
Dr. Barry Wallerstein, South Coast Air Quality Management District
Bill Powers, Border Power Plant Working Group
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